

**OPINION  
45-223**

February 23, 1945      (OPINION)

OFFICES

RE: Incompatibility

This will acknowledge your letter of February 19, enclosing a copy of two motions passed by the county commissioners of Ward County appointing E.G. Pierson, one of their number, as Ward County veterans' service officer as provided by chapter 30 of the 1944 Special Session Laws. You further advise that Mr. Pierson accepted the appointment, and has been and now is serving as a part-time county veterans' service officer of Ward County.

Chapter 30 of the 1944 Special Session Laws authorized the board of county commissioners to appoint, employ and pay on a full or part-time basis an officer to be known as the county veterans' service officer. you now raise the question as to whether or not the county commissioners could contract with one of their number to act on a part-time basis as county veterans' service officer.

As a general proposition, no member of a board should be a party to a contract with himself. Section 12-1006 of the North Dakota Revised Code of 1943 provides:

Every public officer authorized to sell or lease any property, or make any contract in his official capacity, who voluntarily becomes interested individually in such sale, lease, or contract, directly or indirectly, is guilty of a misdemeanor."

Section 48-0212 of the North Dakota Revised Code of 1943 provides:

No governing board, nor any member, employee, or appointee thereof, shall be pecuniarily interested or concerned directly or indirectly in any public contract, either verbal or written, that may be entered into by such board or officer."

It is the opinion of this office that the commissioners of Ward County could not enter into, nor could E.G. Pierson, as one of the members of the board of county commissioners of Ward County, contract with the commissioners to accept the appointment of part-time county veterans' service officer, and that when he did so he subjected himself to possible punishment for violation of section 12-1006.

It is generally considered to be against public policy to allow any member of any board or commission to become the recipient of, or one of the contracting parties to, any contract entered into by the board or commission.

It is further the opinion of this office that the county commissioners of Ward County could not and have not entered into a valid contract with E.G. Pierson, one of the members of the board of county commissioners of Ward County, to act as part-time county veterans' service officer.

We trust this answers your inquiry. A copy of this letter is being forwarded to Mr. E.G. Pierson, who we assume lives at Minot.

NELS G. JOHNSON

Attorney General